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9 Special Counsel to Debtor

10  
11 **UNITED STATES BANKRUPTCY COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**  
13 **FRESNO DIVISION**  
14

15 In re:

Case No. 16-10015

16 SOUTHERN INYO HEALTHCARE  
17 DISTRICT,  
Debtor.

Chapter 9

**NOTICE OF SETTLEMENT RE:  
EMERGENCY MOTION (1) FOR  
AUTHORITY TO IMMEDIATELY  
TERMINATE HCCA MANAGEMENT  
AGREEMENT OR, IN THE ALTERNATIVE,  
FOR AUTHORITY TO MODIFY THE  
TERMS OF THE HCCA MANAGEMENT  
AGREEMENT IN ORDER TO DESIGNATE  
THE BOARD AS THE SOLE SIGNATORY  
ON ALL DISTRICT BANK ACCOUNTS;  
AND (2) TO CONTINUE HEARING ON  
SECOND AMENDED DISCLOSURE  
STATEMENT AND ASSOCIATED FILING  
DEADLINES [DOCKET NO. 325]**

Hearing:

Date: November 29, 2017  
Time: 1:30 p.m.  
Place: Dept. A, Courtroom 11  
U.S. Bankruptcy Court  
2500 Tulare Street  
Fresno, California 93721

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
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I.

**INTRODUCTION**

The Debtor, Southern Inyo Healthcare District ("Debtor"), through its special counsel, Dentons US LLP, by Samuel R. Maizel, hereby gives notice that it has reached a settlement related to the Debtor's *Emergency Motion (1) for Authority to Immediately Terminate HCCA Management Agreement or, in the Alternative, for Authority to Modify the Terms of the HCCA Management Agreement in order to Designate the Board as the Sole Signatory on All District Bank Accounts and (2) to Continue Hearing on Second Amended Disclosure Statement and Associated Filing Deadlines* [Docket No. 325] (the "Motion"). Generally, the settlement reached provides for HealthCare Conglomerate Associates, LLC ("HCCA") to stipulate to the rejection of its management agreement with the Debtor pursuant to § 365 of the Bankruptcy Code, and for the Debtor to withdraw two declarations filed in support of the Motion. The terms of the agreement (the "Stipulation") between the Debtor and HCCA are set forth in a Stipulation attached hereto as Exhibit A.

II.

**PROCEDURAL HISTORY**

The District owns and operates an acute care hospital, a clinic, and a skilled nursing facility (collectively, the "Facilities"). On January 4, 2016 (the "Petition Date"), the District filed a voluntary petition for relief under Chapter 9 of the Bankruptcy Code.

The District and HCCA have a Management Services Agreement (the "Management Agreement"), which the Debtor sought to terminate by filing an *Emergency Motion (1) for Authority to Immediately Terminate HCCA Management Agreement or, in the Alternative, for Authority to Modify the Terms of the HCCA Management Agreement in order to Designate the Board as the Sole Signatory on All District Bank Accounts and (2) to Continue Hearing on Second Amended Disclosure Statement and Associated Filing Deadlines* (the "Motion") [Docket No. 325]. It was supported by two declarations: (i) Declaration of Jaque Hickman, and (ii) Declaration of Ashley McDow (collectively, the "Declarations").

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After a hearing on the Motion, the Court entered the *Order Granting in Part Emergency Motion (1) for Authority to Immediately Terminate HCCA Management Agreement or, in the Alternative, for Authority to Modify the Terms of the HCCA Management Agreement in order to Designate the Board as the Sole Signatory on all District Bank Accounts and (2) to Continue Hearing on Second Amended Disclosure Statement and Associated Filing Deadlines* [Docket No. 335] (the "Order") on October 23, 2017, authorizing and directing the Debtor to remove HCCA as a signatory from any and all bank accounts containing District funds. The Order further directed the District to file a supplemental brief addressing, among other issues, whether the Management Agreement constitutes an executory contract within the meaning of § 365 of the Bankruptcy Code.

Pursuant to the Court's Order, the Debtor filed its *Supplemental Brief In Support of the Emergency Motion (1) for Authority to Immediately Terminate HCCA Management Agreement or, in the Alternative, for Authority to Modify the Terms of the HCCA Management Agreement in order to Designate the Board as the Sole Signatory on All District Bank Accounts and (2) to Continue Hearing on Second Amended Disclosure Statement and Associated Filing Deadlines* on November 15, 2017 [Docket No. 371], arguing that the Management Agreement is an executory contract within the meaning of § 365 of the Bankruptcy Code and that the decision of the District's board to reject the Management Agreement is based on sound business judgment.

The Court has scheduled a further hearing on the Motion for November 29, 2017, at 1:30 p.m.

### III.

#### SETTLEMENT

Subsequent to the hearing on the Motion, special counsel for the Debtor and counsel for HCCA engaged in negotiations to resolve the dispute over the Management Agreement. The District and HCCA want to avoid the cost and delay of litigation over whether the Court should approve rejection of the MSA, and thus, subject to the terms of the agreement portion of the Stipulation attached hereto as Exhibit A, HCCA agrees to the rejection of the MSA, and the Debtor agrees to withdraw the Declarations.

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IV.

CONCLUSION

The Debtor and HCCA request that the attached Stipulation reflecting the agreement reached between the Debtor and HCCA be approved by the Court.

Dated: November 22, 2017

DENTONS US LLP  
SAMUEL R. MAIZEL

By           /s/ Samuel R. Maizel            
          SAMUEL R. MAIZEL

Special Counsel to Debtor

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# Exhibit

# A

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Attorneys for Healthcare Conglomerate Associates, LLC

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

In re:  
 SOUTHERN INYO HEALTHCARE  
 DISTRICT,  
 Debtor.

Case No.: 16-10015-A-9

Chapter 9

Doc. No. BH-19

**STIPULATION RE REJECTION OF HCCA  
 MANAGEMENT AGREEMENT**

Date: November 29, 2017

Time: 1:30 p.m.

Place: Dept. A, Courtroom 11  
 U.S. Bankruptcy Court  
 2500 Tulare St.  
 Fresno, CA 93721

1 Southern Inyo Healthcare District, the debtor in this chapter 9 case ("Debtor" or the  
2 "District") and Healthcare Conglomerate Associates, LLC ("HCCA") agree to enter into the  
3 following agreement based upon the following recitals:

4 **RECITALS**

5 1. In January 2016, the District and HCCA entered into that certain Management  
6 Services Agreement (the "MSA").

7  
8 2. On October 17, 2017, the District filed its Emergency Motion (1) for Authority to  
9 Immediately Terminate HCCA Management Agreement, etc. [Dkt. No. 325] ("Emergency  
10 Motion"), the Declaration of Ashley M. McDow, etc. [Dkt. No. 326] ("McDow Declaration") and  
11 the Declaration of Jaque Hickman [Dkt. No. 327] (together with the McDow Declaration, the  
12 "Declarations").

13 3. On November 4, 2017, the Court entered its order [Dkt. No. 353] ("Scheduling  
14 Order"), in which it set out the briefing deadlines and scheduled a hearing on the Emergency  
15 Motion for November 29, 2017.

16 4. Pursuant to the Scheduling Order, on November 15, 2017, the Debtor timely filed  
17 its Supplemental Brief in Support of Emergency Motion, etc. [Dkt. No. 371] ("Supplemental  
18 Brief"). The Supplemental Brief treated the Emergency Motion as a motion to reject the MSA  
19 pursuant to Bankruptcy Code § 365(a) rather than as a motion to terminate the MSA.

20 5. While HCCA disputes virtually all of the factual allegations in the Emergency  
21 Motion, the Declarations and the Supplemental Brief, HCCA agrees that the MSA is an executory  
22 contract subject to rejection. And while HCCA believes that the MSA is a postpetition executory  
23 contract, it agrees that § 365(a) applies whether the MSA is found to be a prepetition executory  
24 contract or a postpetition executory contract.

25  
26 6. The District and HCCA want to avoid the cost and delay of litigation over whether  
27 the Court should approve rejection of the MSA, and thus, subject to the terms of the following  
28 agreement portion of this Stipulation, HCCA agrees to the rejection of the MSA.

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**AGREEMENT**

Based on the foregoing Recitals, and subject to an order of this Court approving this Stipulation, the District and HCCA agree as follows:

- A. The District withdraws the Declarations.
- B. Other than finding that the MSA may be rejected as an exercise of the District’s business judgment, the Court makes no findings with respect to the allegations in the Emergency Motion, the Declarations or the Supplemental Memorandum (collectively, the “Allegations”).
- C. HCCA reserves the right to contest the Allegations, including, but not limited to the allegation in the Supplemental Brief that the MSA is a prepetition contract.
- D. The MSA is rejected effective 14 days after the entry of the order approving this Stipulation.
- E. Pursuant to Rule 3002(c)(4) of the Federal Rules of Bankruptcy Procedure, the deadline for HCCA to file a proof of claim or proofs of claim (including but not limited to a proof of claim seeking administrative priority) is January 31, 2018. The District reserves its right to object to any HCCA proof or proofs of claim on any ground.

1 Dated: November 22, 2017

DENTONS USA LLP

2

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By: 

4

*Special Counsel* SAMUEL R. MAIZEL  
Attorneys for Southern Inyo Healthcare  
District

5

6 Dated: November 22, 2017

ORRICK, HERRINGTON & SUTCLIFFE LLP  
and KLEIN, DENATALE, GOLDNER,  
COOPER, ROSENLIB & KIMBALL LLP

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By: 

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MARC A. LEVINSON  
Attorneys for Healthcare Conglomerate  
Associates, LLC

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## PROOF OF SERVICE OF DOCUMENT

In re Southern Inyo Healthcare District  
USBC/EDCA Case No. 16-10015

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 601 South Figueroa Street, Suite 2500, Los Angeles, California 90017-5704.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF SETTLEMENT RE: EMERGENCY MOTION (1) FOR AUTHORITY TO IMMEDIATELY TERMINATE HCCA MANAGEMENT AGREEMENT OR, IN THE ALTERNATIVE, FOR AUTHORITY TO MODIFY THE TERMS OF THE HCCA MANAGEMENT AGREEMENT IN ORDER TO DESIGNATE THE BOARD AS THE SOLE SIGNATORY ON ALL DISTRICT BANK ACCOUNTS; AND (2) TO CONTINUE HEARING ON SECOND AMENDED DISCLOSURE STATEMENT AND ASSOCIATED FILING DEADLINES [DOCKET NO. 325]** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below.

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 22, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:** On (date ) November 22, 2017, I will serve the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Office of the U.S. Trustee  
United States Courthouse  
2500 Tulare Street, Room 1401  
Fresno, CA 93721-1326

U.S. Trustee

LeRoy Kritz  
PO Box 784  
Lone Pine, CA 93545-0784

Creditor Committee

Onestaff Medical, LLC  
Attn: Todd Livingston  
11819 Miracle Hills Drive, Suite 101  
Omaha, NE 68154-4428

Creditor Committee

Joseph Rodrigues  
1300 National Drive, Suite 200  
Sacramento, CA 95834-1992

Health Care Ombudsman

☐ Service information continued on attached page

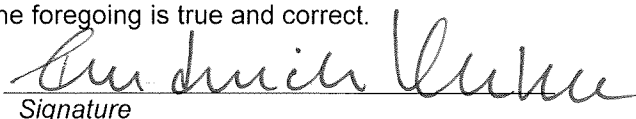
**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on November 22, 2017, I will serve the following persons and/or entities by personal delivery, next business day service or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Judge Fredrick E. Clement  
U.S. Bankruptcy Court for the Eastern District of California  
2500 Tulare Street, Suite 2501  
Fresno, CA 93721-1328

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 22, 2017 Frederick Kalve  
Date Printed Name

  
Signature